

**Approved MINUTES**  
**Board of Forestry Meeting**  
**Tuesday-Wednesday, November 29-30, 2011**  
**DNR Large Conference Room, 3700 Airport Way, Fairbanks, AK**

**Tuesday, November 29, 2011**

**Call to Order and Roll Call.** Chairman Chris Maisch called the meeting to order at 8:35 a.m. The Anchorage and Juneau teleconference sites were connected. Rob Bosworth, Jeff Foley, Erin McLarnon, Mark Vinsel, Ron Wolfe, Wayne Nicolls, and Eric Nichols were present and a quorum was established. Matt Cronin was absent.

**Public Meeting Notice.** The meeting was noticed by issuing public service announcements and press releases, mailing announcements to interested parties, and posting a notice on the state and Department of Natural Resources (DNR) websites. *(See handout)*

**Approval of agenda.** *(See handout)* The agenda was unanimously approved with adjustments on timing. Wolfe requested an opportunity for some updates on items raised at last meeting.

Matt Cronin joined by teleconference.

**Approval of Minutes.** The Board reviewed and unanimously approved the August 30-31, 2011 minutes with one typo correction. *(See handout)*

**Announcements.**

- Introduction of attendees. Wolfe welcomed Randy Bates, ADF&G Director of Habitat and hoped he would be able to attend some Board meetings in person.
- Maisch announced that the Alaska Timber Jobs Task Force will meet in Fairbanks December 1-2 with field trip to Superior Pellets, Dry Creek (Logging & Milling Associates), and Delta School wood boiler. Board members are welcome to attend.
- Vinsel recommended inviting Jeffrey Jones, Governor's Office special assistant for natural resources, to the next Board meeting. He said Jones has attended recent fisheries meetings and is enthusiastic about learning about other resources.
- Wolfe attended the November 2011 SAF annual meeting, and noted that the 40<sup>th</sup> anniversary of the federal Clean Water Act is next year. He would like the Board to have an information campaign on the success of FRPA in preventing nonpoint source pollution and protecting water quality.
- Bosworth asked for a report from Wolfe on the Juneau Economic Development Corporation (JEDC) economic cluster. Wolfe explained that the Obama administration came through Southeast Alaska with a transition plan and asset mapping. After that JEDC facilitated a series of cluster working groups for marine, tourism, timber, and renewable energy to identify assets and develop a strategic plan for each sector. The timber group continues to meet. Wolfe suggested a presentation at the winter Board meeting. The timber cluster work included an analysis of the Tongass National Forest timber program. There is a need to identify a timber base to support the industry and identify other actions to move toward sustainable forestry. Clarence Clark noted a meeting on December 14 will be for all four clusters to discuss common interests.

- Nichols traveled to Uruguay to see timber activity. The country had no timber to speak of until the government established tax credits for timberland in 1987. They now have 2.5 million acres in plantations of eucalyptus and southern yellow pine that are coming of age. They are looking at wood export and pulp and paper manufacturing with short rotation timber. Private companies are investing in processing facilities. It is impressive to see what can happen with supportive government programs.
- Cronin received a copy of a petition to list the flying squirrel under the Endangered Species Act in Southeast Alaska. That would negatively impact timber harvest efforts.

## Old Business

**Budgets.** Maisch referred to the Board minutes from August on the DOF FY12 budget. DOF received a \$400,000 increment to address issues under Forest Practices, including state forest road maintenance, reforestation, inspections, and training. DOF is providing some funding to ADF&G for FRPA work through a Reimbursable Service Agreement (RSA) to help offset the loss of federal Section 319 funding. This is the last year for the RSA with ADF&G. DOF also received Capital Improvement Project (CIP) funding for road construction (\$600,000). The Division is looking at the best sites to invest in roads in the northern and southcentral areas. FY13 budget is underway; it remains internal until Governor's budget is released. DOF has no increment requests and just one CIP request for biomass work for FY13.

Wolfe asked about the DOF strategic planning process and how the Division's budgeting comports with that process. Are the concerns with short-term needs at the expense of long-term planning? Maisch noted that first strategic plan was developed three years ago, and probably chewed off too many things at once. The plan informs the 10-year budget plan for the Division. The one area of difficulty remains timber sale receipt funds. Wolfe would like a report on the DOF Strategic Plan and it's relation to budget request at the next meeting, and on the state budget process. Maisch said DOF will put together a briefing, and will include timber sale receipts. The Division turned a corner on timber receipts last year – they are headed back up and “bridge timber” efforts in SE should increase timber receipts.

Randy Bates, ADF&G Habitat Division director, reported that the Habitat budget was down about \$250,000, partly due to Alaska Coastal Management Program (ACMP) and FRPA decreases. He appreciates the \$42,500 RSA from DOF. Habitat has chewed through a good portion of the FRPA money already; and are leaving some positions open to save funds. ADF&G remains committed to a field presence for FRPA and operating in a timely and efficient manner. They are getting the work done. The FY13 budget is still under development. Habitat is pursuing a General Fund increment to make up for losses of ACMP and FRPA funds. Bates wants to attend future Board meetings in person.

Vinsel asked how the current FY budget for Habitat compares to 10 years ago overall. Bates replied that Habitat was twice as big 10 years ago, and included other functions such as hatcheries, restoration, and rehabilitation activities. The Division was reorganized when it went to DNR for a time. Bates will provide historic budget information. Habitat didn't have money to implement FRPA appropriately 10 years ago the way it has in recent years. Kevin Hanley said that 10 years ago the Section 319 funding to ADF&G and DNR was much higher. Bates said that Habitat is

also pursuing Alaska Sustainable Salmon Fund money for Kodiak salmon stream cataloging geared to facilitating timber sales. That would also help offset General Fund shortfalls.

Wolfe asked for info on the Salmon Fund source and mission at the next Board meeting, including how the Habitat Division works with the fund.

Maisch noted that the Board has long been on record in support of adequate FRPA funding for all three agencies to implement the Act. DOF is the lead, but gives due deference to the other agencies. Participation by all three is important to keeping the program functioning and support the industry. Wolfe is pleased to have legislative representatives present at the Board meeting, and noted the importance of the participation by the industry in developing the Act. Maisch noted that all parties participated actively and there were compromises and contributions by all parties.

Rep. Dick asked for an introduction to FRPA. Maisch said it was developed with an initial focus on Southeast riparian issues. Many parties were involved and reached consensus on statutes and regulations for forest practices in three regions. The Act protects clean water and fish habitat, including large woody debris, temperature, sediments, etc. It establishes riparian buffers. Private land buffers differ from those on public land. The Act recognizes the contribution of timber value from private land. FRPA tries to get a “dollar’s worth of protection for a dollar’s worth of cost.” The Act has held up for 20+ years, and has been modified three times following a process that involves all affected parties. Each recommended change had broad support and passed the legislature without change. Wolfe added that in 1989 the Native corporations were challenged with how to deal with forest practices issues and whether to pursue litigation or participate in a consensus process. There is a need to protect public resources like fish, but private landowners have rights to avoid takings. The private landowners decided to participate in the process to develop FRPA, and Wolfe appreciates the legislature’s respect for that process.

Rep. Dick noted that there’s no timber 100’ off the interior rivers. Maisch explained that the riparian buffers are tailored to each region.

Sonafrank said that the DEC role in FRPA has narrowed somewhat due to funding declines. She expects another 18% decline in Section 319 funding in the next federal fiscal year. Hanley will continue to be active in Detailed Plan of Operation (DPO) reviews. EPA did a study of the Section 319 program and refocused it on restoration projects. In the long term Alaska Clean Water Actions (ACWA) projects will be funded at a reduced level. In the past there was ACWA funding for FRPA. The 319 program is getting into Green Infrastructure support to address runoff and stream protection in urban areas. DEC has worked with the DOF Community Forestry program, municipalities, and the Cold Climate Housing Research Center on Green Infrastructure projects. A proposal for a larger Green Infrastructure project was submitted to USFS competitive grant program, but was not funded. EPA has now opened a new Green Infrastructure program and DEC will resubmit the proposal there. Green Infrastructure uses some forest practices principles in urban areas to reduce pollution from stormwater runoff. Maisch explained that the DOF Community Forestry program is supported by competitive grants plus USFS formula funding. Two grant proposals were submitted this year but were not funded. Sonafrank said that some of old unspent 319 funding nationally may be available for competitive grants. DEC may look at revising and resubmitting the Green Infrastructure project proposal next year.

Wolfe said that 319 funding has been integral to the FRPA strategy. He would like to have a knowledgeable EPA representative to talk with the Board about moving 319 funding policies away from support for programs that are working. Is FRPA a victim of its own success? Sonafrank said that DEC doesn't look at 319 for ongoing support to programs—there isn't enough funding to do that. DEC uses it as seed money to address problems, and then looks to other sources for long term funding. It rotates Section 319 funding to different watersheds and issues over time because the resources are very limited.

Vinsel said the federal focus is on the Lower 48 mindset regarding repair of impaired waters rather than preventing problems on healthy waters. Sonafrank reported that there's some acknowledgment of the need for and lower cost of prevention vs. restoration. However, impaired waters are increasing in the Lower 48, and there's a lot of emphasis on restoration. The EPA has started a healthy waters initiative in recent years, e.g., protecting headwaters. In Alaska we have a huge number of healthy waters, but there are still places where we can see problems coming and we need to work on prevention. Hanley added that if the FRPA best management practices weren't so effective and implemented so well, there would be more money there. Sonafrank said that DEC may come back to forestry with 319 funding in the future as issues develop. Maisch noted that NPDES and forest roads could be one such arena. He recognized that FRPA has been very successful and said we haven't celebrated that enough.

Bosworth asked about Green Infrastructure and the Request for Proposals. Sonafrank explained that EPA has initiatives on urban waters and healthy waters. Green Infrastructure strategically uses vegetation buffers, rain gardens, permeable pavement, etc. to retain rainfall and reduce runoff from pavement to streams at a variety of scales. It's for stormwater pollution control. Green Infrastructure happens at different levels for different purposes. The US Fish and Wildlife Service is very engaged at the landscape level to create wildlife corridors in metropolitan area.

Nicolls asked whether there are criteria for managing large paved areas and determining what percent of a watershed can be paved. Sonafrank replied that remote sensing imagery can be used to determine what percent of a watershed has been paved. That is one of the metrics to evaluate watershed health. There are efforts to reduce the amount of paving in subdivisions.

Vinsel thanked DEC for Hanley's involvement in FRPA and the Implementation Group.

## **2012 Legislation.**

Maisch noted that the 2011 Southeast State Forest (SESF) legislation that doubled the size of the State Forest was covered in the August meeting minutes. He doesn't expect a new push for additional SESF acreage this year – DOF is waiting for Task Force recommendations for how to do that. There is potential for activity on a Susitna State Forest – there is interest from Valley legislators and the Governor's Office. DOF is starting the work of drafting legal descriptions. The Susitna-Matanuska Area Plan is in litigation which may delay these efforts. This is the second year of the legislative session.

Freeman reported that Rep. Peggy Wilson introduced HB 91 in the 2011 session to add public safety to the purposes of FRPA. The bill did not have a committee hearing in 2011. It remains in the House Resources Committee for the start of the 2012 session.

Bates said that there is no legislation from the Habitat Division this year. Vinsel asked about the loss of coastal management funds. Bates confirmed that the Habitat Division lost \$100,000 in federal funds for coastal management – a big impact on their budget. Vinsel asked whether there are rumors of legislative initiatives to reinstate ACMP this year. The United Fishermen of Alaska support reestablishment of a coastal management program, whether that is the previous program or a revised version.

Maisch reported on federal forestry legislation.

- FFY12 appropriations will probably occur through a continuing resolution; therefore no big hits are expected until FFY13 when there could be formula-driven cuts across the agencies that could affect the fire management and cooperative forestry programs.
- The Farm Bill process is kicking off which includes programs under NRCS that are valuable to private landowners (EQIP and WHIP).
- The USFS Planning Rule will be back out soon with formation of a national RIC including a western state forester. Alaska will continue to participate in that process.
- Secure Rural Schools funding sunsets this year. There is discussion of ways to allow states or counties to manage some federal lands for beneficiaries such as school districts. So far 13 states have signed on to the concept through the Western Governors Association. Nichols asked whether the NEA supports it. Maisch said he doesn't know yet – the proposal is still in the early stages. Alaska is working through the Western Governors Association and Council of Western State Foresters and is supportive of concepts to have states or local governments manage some national forest land.
- Stewardship contracting by USFS is moving forward – there is interest in continuing this program.
- Consideration of wood boiler standards under EPA was set aside. Rep. Wilson said that EPA has started their wood boiler standards program back up again.

**Wood energy.** Devany Plentovich, Alaska Energy Authority (AEA), did a PowerPoint presentation on Regional Energy Planning programs, including the Alaska Energy Pathway, Rural Energy Plan, Energy Policy Task Force, Rural Energy Action Council, Renewable Energy Atlas of Alaska, etc. Energy Planning Regions coincide with Native regional corporation boundaries. AEA is focusing on construction projects that will reduce rural energy costs. Energy planning is led by regional entities except along the Railbelt and in Southeast where AEA will lead the process. Planning will involve the public, and will use common assumptions and data sources statewide. Planning is gearing up or underway in several regions. The Southeast plan is due out soon. The switch from fossil fuels to electricity is using up all excess hydropower generation which will need to be addressed.

Plentovich reported that 105 of the 559 applications for Renewable Energy grants were for biomass and biofuels, including 34 of the 207 funded projects. AEA recommended allocating \$239,200 in funding and requests for funding totaled \$1,224,000. About \$18,800 of the \$176,600 appropriated so far went to biomass projects. Plentovich would like to see 15% of the renewable energy funding go to biomass. She expects that additional biomass grants will be funded in Round 5 of the program.

There are no major changes in funded projects since the last briefing. Projects for a Mat-Su school, the Kenney Lake School, the Haines Borough, Shungnak, and McGrath are at decision points for choosing a wood fuel source, e.g., cordwood, chips, or pellets. Plentovich appreciates input from DOF and others on what fuel source will make the most sense for each project.

Nichols asked whether the cost/unit of energy is tracked for biomass vs. other renewable energy sources. Plentovich said that AEA is analyzing this for operational projects – they are collecting the first year of data now, and hope for more information by next BOF meeting.

Plentovich reported that the AEA Wood Energy Task Group will conduct pre-feasibility studies for potential district heating projects. Twenty-six entities are interested. The Group is scoring and prioritizing the projects, then will do pre-feasibility studies starting in spring 2012. This will fill the pipeline with projects ready to go to the design and construction phase.

The Tanana resource assessment is nearly complete, and assessments for Gulkana and Kenai are in process. In Galena, the Loudon Tribal Council is looking at Gana-A'Yoo and Native allotments and coordinating overlapping efforts with Tanana Chiefs Corporation, AEA, and Clare Doig. AEA is adding an assessment for the Cordova area with Eyak Corporation.

Plentovich introduced Helen Traylor as the new AEA Assistant Project Manager for biomass.

Doug Hanson, DOF, asked whether the entities deciding between pellets and cordwood have contacted Superior Pellets about supply. Devany said that Kenney Lake has done so. Mat-Su is just getting ready to look at that; they realize that Superior Pellets are an option. Haines is discussing sources -- Haines Jct. is also in feasibility studies for pellet generation. Maisch commented that using cordwood implies a local source for the resources, whereas pellets would be shipped in. Local use could help with fire hazard reduction, too. Devany noted that Mat-Su is very interested in using local wood, but recognizes that pellets could be simpler for the school and keeps the operation simple. Nichols observed that keeping transportation costs down is also important, especially for a low-value bulk commodity. Plentovich is interested in pulling Hanson in on the Shungnak fuel decision.

Maisch is glad to see the wood energy task force reactivated. The previous task force helped set up projects that have now actually been constructed. Plentovich agreed that the Tok, Delta, Craig, Gulkana, Chistochina, and Kake projects came out of the former effort.

**FRPA implications of wood energy expansion.** Mark Eliot and Mike Curran, DOF, provided an introduction (*see handout*). Biomass commonly uses submerchantable material to produce energy which raises questions about FRPA applicability. Does FRPA appropriately address biomass harvest operations and their impacts on water quality and fish habitat? Superior Pellets is using material coming from commercial harvests that are already regulated under FRPA. Commercial firewood is also covered through FRPA implementation on timber sales. There is a grey area for projects like the Tok School that is mostly using pre-merchantable and non-merchantable material that was harvested for hazardous fuel reduction, not commercial timber, and therefore wasn't covered by FRPA. The proposed Alaska Power & Telephone (AP&T) and Fort Yukon operations could raise similar issues: for example, does harvesting riparian willow fall under FRPA. If there is no product for sale does FRPA apply?

In Region III the threshold for a commercial operation is 30MBF wood/year, and an >40 acres. Trees don't have a board foot measure until they are 2" dbh at the small end. If there is no sale of the wood, is it a commercial product?

Hanley said that DOF should look at whether there is a market within a reasonable area where the product could be sold commercially even if they aren't doing so. If so, it should qualify as a commercial harvest.

Eliot said that the state agencies are starting to look into this. DOF recognizes that this is a grey area. At this point, DOF is just raising the questions. Nichols stated that it's not such a grey area. Biomass changes our view of what is merchantable. FRPA is based on what you can sell or use. If you can use it for biomass it becomes merchantable. It becomes commercial at the point where it has value. Is someone getting paid for harvesting and using the product? If so, it has become commercial. Board-foot measure is not applicable – you need to add a tonnage measure. He agrees that the overall issue for FRPA is protection of the other resources – the liabilities are the same regardless of the size of the tree being harvested. Curran agreed, and emphasized the need to keep the purpose of FRPA in mind regarding fish habitat and water quality. Does FRPA already state that clearly enough? Nichols replied that the overall Act is fine, but the definitions need to be beefed up.

Wolfe asked whether anyone from AP&T or the school projects have proposed that their projects be exempt from FRPA. Eliot said not to our knowledge.

Nichols commented that the riparian buffers will be a different issue – what can be harvested in riparian areas. Especially if there are also bug and fire issues in addition to fish and water quality.

Wolfe recommended “proceed until apprehended.” The agencies would be on good ground to proceed with the assumption that FRPA does apply until they are challenged. Nichols commented that the willow projects do raise issues of what's acceptable within riparian areas.

Maisch appreciated the Board's input. DOF hears that some work on definitions is needed, including “commercial,” “merchantable,” and “timber.” He noted that FRPA applicability is likely to be triggered by proximity to a waterbody, not the acreage limit.

Nichols emphasized that people who are contemplating these projects should know what the regulatory requirements are before they make these financial decisions. It is essential that DOF provide them information – there's a lot of state money being invested in these projects. Hanley stated that AEA also needs to make clients aware.

Maisch asked whether black spruce that is mown down will be subject to FRPA. Eliot said that if the wood comes off state land, we won't be giving it away, so it becomes commercial. DOF wants to know if hazard fuel reduction efforts will be subject to FRPA. Nichols cautioned that the agencies should be aware of implications for other areas like the Kenai, too. Jandreau observed that remote areas haven't previously worked with FRPA, and may not realize the effects on their timber base. It is fortunate that a forester has been hired on biomass projects to date, and the foresters are familiar with FRPA.

Curran noted that reforestation requirements will also be a big issue, e.g., if entities are harvesting willow will there be replanting costs? Maisch replied that replanting is not likely to be needed with willow, but there may be issues where black spruce is harvested from cold sites with deep moss, etc. Nichols added that reforestation was an issue even for white spruce harvesting on the Kenai.

Maisch said that DOF will work on specific recommendations to present to the Board. For the AP&T project, the Division is proceeding with the assumption that it will be a commercial harvest. Clare Doig is the consulting forester on that project.

Nichols said that fast-growing poplar might change the economics of projects compared to native species.

Vinsel asked whether the decisions on cordwood vs. pellets on AEA projects are being made without involvement of someone who can assess the sustainability of the supply. Maisch replied that DOF is reviewing sustainable supply and cost issues for proposed projects. The scale of projects so far has been small enough that supply isn't a challenge. The AP&T project is big enough that a close analysis of supply is essential. DOF is involved in this process.

Maisch said that the FY12 increment for DOF includes funding for FRPA, but not for a firewood coordinator. Area offices continue to oversee the fuelwood programs. The online permit has reduced the workload, but there are still issues with the personal use program – it's not a revenue generator, but it's an important public service.

Wolfe commented that AP&T operates the Black Bear Hydro project on Sealaska land on Prince of Wales Island and reported that they are good corporate citizens with whom to work.

Nichols stated that energy projects are community issues rather than revenue generators for a single corporation. It's essential to know what the rules will be in advance, and to get the economics right. Maisch said that biomass projects are a game-changer for what is considered commercial forest land. They offer huge opportunities, and we want to get them right. So far the scale of the projects has been appropriate, and has offered a good chance to learn as we go. The AP&T project is a bigger project, so there are additional questions on how to structure a long-term agreement. DOF wants a fair deal for all parties.

**Air quality and wood energy.** Jim Conner, Fairbanks North Star Borough air quality manager, did a PowerPoint presentation on Fairbanks North Star Borough (FNSB) air quality. The Borough's primary concern is with smoke and protecting sensitive groups – children and elders. EPA lowered the allowable fine particle concentration in the air, and will probably lower it again this year. Spikes in particulates occur in the winter and when big wildfires occur. There are many violations to the federal limits for 24-hour PM 2.5 (35 micrograms for sensitive populations; 60 for everyone).

The Borough must be in compliance by 2014 – failure effects include loss of federal funding for transportation. Fine particulates increase as the temperature drops and when wildfires occur. FNSB is working to change out wood-burning devices to low emission stoves. There are fines for



burning wet wood during an air quality alert in high priority areas. Weather, changing fuel prices, and efforts to reduce emissions all affect emissions. In January there will be new information on the trajectory of particulate emissions.

The main emissions are from space heating with wood and oil. Wood smoke makes up over 2/3 of fine particulate emissions downtown; the percentage is higher for more rural areas, lower in industrial areas. Fuel oil and coal put a lot of sulfur into the air. Fairbanks needs to reduce particulate emissions by 35-40% to comply with the standards by 2014. If wood burning is reduced it also reduces sulfur because the ammonia in wood emissions precipitates the sulfur. Maisch said that the emphasis is on using more efficient burning devices and using dry wood. The new wood burning devices also precipitate sulfur compounds. Conner said that just reducing sulfur in fuel oil may not get the desired result. He noted that wood use in Fairbanks is increasing and oil use is staying constant. Most homes have two heat sources.

Control measures include changing out wood stoves, limiting locations where outside wood boilers can be used, burning dry wood, and public education. Fairbanks would have to change out 2,600 wood stoves to achieve the EPA standard. They have changed out 300 stoves so far, but it's too early to tell if it's made a difference. Other measures are newer and no estimate of benefits is available at this time.

Vinsel asked whether there are opportunities to reduce heating needs through insulation. Conner replied that some opportunities are still available – some homes burn 20 cords or more per year, which indicates that the houses are not well-insulated. Maisch noted that Juneau still has air quality issues in the Mendenhall Valley. Pellets are the only wood fuel that can be used on days of air quality concerns.

Nichols asked whether there is any effort to reduce emissions from existing stoves. Conner answered that Fairbanks is looking at electrostatic precipitators. Some catalytic converters provide benefits on outside wood boilers. Retrofits are a good option. People are happy with more efficient burners. The Borough has to shred the replaced stoves. Some retrofits aren't effective in the Fairbanks climate, and don't improve efficiency.

FNSB Mayor Luke Hopkins said that they have to increase the incentives for change-outs. It's important to meet the EPA standards. Residents can put in as many pellet stoves as they want. If someone gets rid of an outdoor boiler, they can get \$500 to buy local pellets. The Borough will pay up to \$3000 per stove replacement + \$1000 for the chimney. Rep. Wilson noted that it's still important to educate people about splitting and drying wood – wet wood wastes money as well as impairing air quality. Birch doesn't dry well if not split. Buying the right size stove is important – if it's too big, it won't be run efficiently to prevent overheating. Nichols asked whether stoves that are changed out are always replaced with other wood stove. Conner explained that they go to various fuels – pellets, kerosene, efficient wood, oil, etc. The Borough won't pay residents to change to coal. Nichols noted that if people switch to electricity, it increases the need for electrical capacity. Communities are exceeding the electrical generation capacity in Southeast. Hopkins said that most of the store exchanges are for a more efficient wood stove. Nichols asked about supplying moisture meters. Hopkins replied that the Borough is making meters available and is considering making splitters available at no cost.

Conner added that FNSB is also working on a dry wood exchange program on a BTU equivalent basis.

**Air quality standards re wood energy.** Alice Edwards, DEC, presented a PowerPoint. The national air pollution standard of greatest concern is the 24-hour fine particulate standard of 35 mcg/cubic meter in a 24-hour period. These particles are very small and are easily breathed into the lungs where they accumulate and react. They may aggravate asthma and bronchitis, increase heart and lung disease, etc. The aim is to protect public health through emission standards on all size units, and permits for larger wood-burning units. Air quality regulations are in 18 AAC 50 including definitions for wood-fired heating devices, fuel-burning equipment, and incinerators, and the emission standards. The regulations prohibits black smoke, burning wood during air quality episodes, and opacity >50%.

DEC minor permitting has standards for PM10, NOX, etc. Permits are required before beginning construction. Most wood-burning facilities are smaller than the threshold for major permitting requirements. In 2011, EPA deferred implementation of the CO2 provision from biomass sources for three years.

Federal standards include new source performance standards (40 CFR 60) that apply to residential wood heaters, but not boilers or furnaces. EPA is updating these standards to bring in outdoor wood hydronic heaters. The New Source Performance Standards have boiler standards for new units. National Emission Standards for Hazardous Air Pollutants apply to industrial, commercial, and institutional boilers and heaters, including the types of “area sources” being installed in rural communities. EPA is reconsidering this rule and has stayed the application of the rule for major sources; DEC expects the final rule in April 2012.

DEC is evaluating whether its minor permit thresholds will meet new federal air quality standards, considering impending regulation of residential outdoor wood heaters, and regulation of larger biomass combustion devices.

Maisch asked how enforcement occurs. Edwards replied that DEC enforces permit programs and does some compliance work on residential wood heating in FNSB in response to complaints. DEC doesn’t have the ability to issue fines – they have to build a case to take to court. They emphasize compliance assistance and education.

After lunch the meeting reconvened with all Board members present but Cronin.

**Public comment.** No public comments at this time.

**Mental Health Trust land exchange.** Paul Slenkamp, Mental Health Trust Land Office, noted that the Trust has forest land throughout the state. The Trust recently completed a Forest Stewardship plan for the Icy Bay tract (45,000 acres). They are also working on a closeout plan in that area. The large timber sale on the Leask Lake tract will be completed this summer. The Trust is working on sales up to 6 MMBF throughout the state. Total timber receipts from Trust land since 1995 are just under \$38 million and are one of the Trust’s larger revenue sources. The Trust has RSAs with DOF for timber inventory near Fairbanks, Haines timber sales for small operators;

logistical support, GIS support, and inspections in the Ketchikan area; and for Clarence Clark to work with the Trust and USFS on administrative land exchange issues.

Slenkamp reviewed the proposed administration exchange for Trust and USFS land in Southeast (*See handout*). The Trust presented the proposal to the USFS on November 16, 2011 and is awaiting an official response. The same Trust parcels were previously identified for a legislative exchange. They have prioritized areas for exchange and the Petersburg area is the number one priority. The USFS is pleased to be working cooperatively with the Trust. The trade will be a value-for-value exchange. The USFS lands identified by the Trust are requests and suggestions – the USFS has not yet identified lands with which they are willing to part. They are interested in the Trust lands. This is the first official request to the USFS to begin this process. The Trust is exploring creative solutions. Slenkamp reminded everyone that the Trust was created to provide mental health services to citizens of the state.

Matt Cronin rejoined the meeting.

Wolfe asked whether the Trust had held any discussions with the USFS on candidate federal lands. Slenkamp replied that the Tongass National Forest doesn't have an existing list of possible lands. The Trust has tried to have those discussions. The USFS has to do a preliminary evaluation of feasibility, and then enter into an agreement to initiate an exchange and identify potential parcels on each side, conduct public scoping and the NEPA process, etc. It's a 68-step process that takes a minimum of three years. A journey starts with a single step. The Trust spent 4-5 years on the legislative approach with no progress. An administrative exchange requires many of the same steps. The Trust will continue on parallel courses at present.

Wolfe asked about requirements to demonstrate that it's an equal-value exchange. Slenkamp explained that the Code of Federal Regulations (CFR) outlines the appraisal process. The parties identify potential trade parcels with their attributes and priorities, and then work down the list in order of priority. That doesn't happen until after the NEPA process. Wolfe stated that it's important to the Trust to have their acres valued highly and not have their value diminished. Slenkamp concurred. At present, the Trust has identified roughly equal potential acreages for each party, but the outcome is determined by value. Timber value will be included in the appraisals. Wolfe asked what would happen if the exchange resulted in a land base that would reduce the ability of the Trust to generate revenue. Slenkamp replied that the Trust has to determine that the outcome must be in the best interest of the Trust to proceed. The USFS must make the same determination. Nichols stated that if there's risk on the Trust parcels, the USFS may not want them. Wolfe responded that the USFS mission is broader than the Trust's. Slenkamp said that is true, but the USFS doesn't want to inherit headaches either.

Maisch said that the appraisal process is the same for the lands on both sides, and uses the same criteria. Zoning or other actions that would not allow harvest it would reduce the appraised parcel value. Lands are appraised for the highest and best use regardless of how the acquiring party decides to use the land.

The whole Trust parcel on the east side of the passage is of interest to the Mitkof Highway Homeowners Association (MHHA), and there are residences throughout that area.

Vinsel suggested that if Petersburg becomes a borough with an entitlement, the Trust could exchange land with the borough instead if they have an easier process. Slenkamp said that the Trust is open to a variety of solutions. The Trust is at the table and opens to other ideas.

Bosworth asked whether the purpose of the exchange is mostly for harvesting timber. Are there other uses that support this? Slenkamp responded that the Trust exists to create revenue; other uses are welcome but are not the primary goal. The Trust has to maximize revenue, but there's no set way to do that. E.g., the Trust has a conservation easement with The Nature Conservancy in Gustavus. The timber program has been very successful – it generates revenue, creates jobs, and retains the land. Bosworth said that there's a history of interaction with people in Southeast Alaska over the last few years – what will the public reception be to this proposal. Slenkamp reported that Skagway has some trepidation -- they don't want government land surrounding their town. All the other communities have been supportive, along with the Prince of Wales Island Community Advisory Council. The Council is worried about their timber base diminishing.

The Trust owns both surface and subsurface resources on Trust land. Wolfe noted that other resources could be developed – minerals, materials, recreation, etc. Slenkamp agreed, and noted for example that a Southeast zipline for tourists is on Trust land. The Trust will evaluate any options to generate revenue. Wolfe asked whether the proposed Trust retention lands on Mitkof Island are controversial with MHHa. Slenkamp said not to his knowledge. The Trust will assess any environmental hazmats, etc., and such sites won't be part of an exchange. He commented that a land exchange better than segregating the rights on Trust lands under an easement.

**Landslide Implementation Group.** Marty Freeman, DOF, summarized the Implementation Group (IG) process and recommendations (*see handouts*). The IG met three times to review the recommendations from the Science & Technical Committee (S&TC), consider economic and land ownership factors, and determine how to best implement the S&TC recommendations in practical manner.

The Group agreed on the following terms:

- Landslide and mass wasting will both use the existing mass wasting definition in the regulations.
- “Unstable area” and indicators for unstable areas will be used in the regulation section on DPOs (11 AAC 95.220)
- “Unstable slope” will be used in all other BMPs that previously used the terms “unstable slope,” “unstable or slide-prone slope,” or “unstable slope or slide-prone area.” These include the BMPs on road construction (11 AAC 95.290), harvest unit planning and design (.340), landings (.345), cable yarding (.360), and tracked and wheeled harvest systems (.365). A new definition of “unstable slope” will be added to the regulatory definitions.
- Add a definition for “unstable fill material” to the regulatory definitions and using the new term in the BMP on balancing cuts and fills in road construction (11 AAC 95.290(b)(2))
- Leave “high risk of slope failure” as is in 11 AAC 95.280(d)(1) under slope stability standards.

The Group agreed on the following changes to BMPs:

- Add a new subsection to the cable yarding BMPs (11 AAC 95.360) requiring that operators minimize disturbance to soils, understory vegetation, stumps, and root systems.

- Add a new subsection to the harvest planning BMPs (11 AAC 95.340) requiring that operators consider techniques such as partial cuts, retention areas, and helicopter or skyline yarding to minimize disturbance.
- Add to the tracked and wheeled harvesting BMPs (11 ACC 95.365) a requirement that an operator provide notice to DOF before operating tracked or wheeled equipment on unstable slopes.

The Group recommended training on DPO mapping and identification of “unstable areas;” use of the indicators to identify unstable slopes, unstable areas, and saturated soils; assessment of slide runout zones, the connection between FRPA standards and DEC water quality standards, use of the BMP implementation field book (“purple book”), and changes to the BMPs.

The Group deferred to the Board’s decision to retain the qualification that restrictions to blasting and excavation under saturated soil conditions (11 AAC 95.290(b)(3)) and end-hauling and full-bench construction (11 AAC 95.290(d)) be limited to conditions where mass wasting “is likely to occur and cause degradation of surface or standing water quality.”

The Group did not agree on whether to include the indicators for “saturated soils” and “unstable slope” in the regulations or the BMP implementation field book (“purple book”). Next steps may include conducting the regulation process, training programs, updates to the “purple book,” and other actions depending on BOF decisions.

Board input is needed on the location of indicators for unstable slopes and for saturated soils, on putting the IG recommendations into regulations, and on the overall “Option II” approach.

Wolfe noted that many of the current regulations came from a prior field book. Freeman noted that some new regulations have been adopted as a result of the S&TC/IG processes. Nichols asked whether there will be any better indicators in the future. The proposed indicators have largely been around for awhile and are pretty straightforward. They don’t identify all problem areas. Would putting these in regulation make it harder to look at new information as it comes along? Hanley noted that the recommendation is to consider these, and use “may include” language, not to preclude consideration of other factors. Maisch noted that the regulation process is simpler than legislation, and regulations can be revised in the future.

Wolfe advocated putting the indicators in the purple book. There’s a conflict between a guideline and an indicator. Regulations aren’t guidelines. It is inappropriate to have the indicators in regulations when they are connected to specific regulations that could be costly. Hanley responded that the regulations are specific regarding characteristics for anadromous streams but anadromous fish are often found outside Type A and B streams – there are still instances that go beyond the guidelines. Wolfe disagreed; he said the regulations are clear on what to do when anadromous fish are found outside catalogued streams. Nicolls stated that the cost should not be part of the consideration for the location of the indicators. Wolfe countered that cost is one of the cornerstones of FRPA since 1990. Vinsel added that the difference between the IG and S&TC is that the IG includes considerations of economic factors. Maisch said the FRPA approach is to seek a dollar’s worth of protection for a dollar’s worth of cost, especially on private lands.

Maisch noted that a recent letter from the MHHA raised some issues for the Board. He noted that the Board is an advisory board to the state agencies, not a regulatory board. Discretionary immunity applies to the Board as a whole and as individual members as long as they are not grossly negligent.

Kevin Saxby, Assistant Attorney General, said that there are two statutory levels of protection for Board members.

- 1) If a lawsuit is brought, and the Department of Law finds that the person charged was acting in their official authority, the state will provide the defense, and it becomes a suit against the state rather than against the individual.

- 2) There is a prohibition against lawsuits on policy-level discussions and decisions.

There is a great deal of protection to allow the Board to do their jobs.

Nichols stated that the MHHA letter has an implied threat of individually naming Board members in lawsuits against Board actions. Some Board representatives might be perceived as having a conflict of interest –would they still be protected? Saxby answered that anyone can file a lawsuit, but it may not go anywhere. A Board members acting in his/her capacity as a Board member is protected. If a suit names an individual, the Department of Law reviews the case, and if the person was acting in their official capacity it automatically becomes a suit against the state and there is no personal liability. The second line of defense is that it's a policy level decision and a suit on that kind of decision is not lawful. The state would move to dismiss such a case for failure to state a claim. It is an unlikely as a case can be that a Board member would be personally liable for a recommendation on whether or not to adopt a particular regulation.

Cronin asked whether a landowner with timber like the Trust's at Mitkof has to have a plan approved by DOF. Maisch explained that the agencies must review the DPO, but it is not a permit. Cronin said that DOF could stop an operator if they proposed to cut down to a stream. Maisch said yes. DOF doesn't have the authority to adopt regulations on public safety at present, but can adopt regulations for water quality and fish habitat. Those regulations may have side benefits for public safety. Cronin asked who does have responsibility for public safety. Maisch said that in this case it would probably be local zoning. The Board reviewed public safety authorities in detail with the Board previously (*see minutes from March 17-18, 2010 Board meeting*).

Vinsel asked whether the Board would be acting outside its responsibility if members inserted themselves into a particular situation such that a landowner felt we were taking from their property to benefit a different landowner when the Board doesn't have public safety authority. Would Board members be liable in that case? Saxby replied that the analysis is the same regarding liability. The question is whether or not it would be legal. Legal issues would arise when the Dept. of Law reviews draft regulations for legality before they are published. The regulation attorney would determine whether there is legal authority to adopt the regulation. If not, it wouldn't go forward.

A Board member noted that the S&TC and IG input provides good forestry information. Where do we direct these citizens go who are asking for help? Maisch said that the Board's previous recommendation was that it was a local government issue. He noted that the City of Petersburg also discussed the landslide safety issue on Mitkof Island previously and did not reach agreement

on how to approach it. Jandreau noted that there are some residences that are not in organized municipalities. Maisch agreed, although the Mitkof area is in a municipality. Other examples of municipal safety ordinances address floodplains and avalanche zones. Nichols added ordinances on fire risk. Slenkamp emphasized that there has been no activity on the Mitkof ground by the Trust. The recent slides on Mitkof all occurred in the absence of forest activity – public safety risks exist in the absence of forest activity. Maisch summarized that no one agency has jurisdiction on this issue. We may be asked this question because it's not clear who else can do this. Wolfe disagreed. He stated that the local government has the authority to deal with it. The S&TC did a good job of assessing the hazards. This issue is restricted to Petersburg; other areas with this risk have largely already been harvested.

Nichols added that there is a civil liability for private entities if something does happen, whether it's blowdown on a neighboring property, runoff, or landslides. The risks have typically been addressed through litigation rather than legislation.

Vinsel asked what the Commissioner, Governor, and Legislature thinks. Do they want us to bring public safety into FRPA? Maisch replied that the Board makes recommendations. The Board could state that they aren't comfortable making a recommendation to expand the authority. The DNR Commissioner, who is also the former Attorney General, expressed some concern that the Board hadn't addressed public safety, although he was open to the Board process. It struck him odd that the Board didn't address public safety with regard to forest operations. The Board could pass the buck, but this Board was appointed to provide good advice on issues like this.

Nichols declared that it is extremely difficult to regulate a natural phenomenon. FRPA does a good job of regulating bad decisions on the ground like putting fill on unstable ground. It's hard to regulate issues between land owners – how much of the landslide risk is natural, how much is associated with the forest operations? These things happen with every major storm event in Southeast Alaska. We can't regulate something caused by natural events. Maisch commented that there is a risk for operating on a steep slope, and that is also a financial decision. Different landowners accept different levels of risk. We hope liability deters bad decisions.

Freeman noted that there was a 1980s case where a landslide occurred some time after a 1960s timber harvest. The Superior Court held the state 10% responsible for downslope damages. The state appealed and the Supreme Court remanded it. The Supreme Court said that the Superior Court did not explain how it determined that the state harvest was the proximate cause of the slide. We don't know what happened after the remand – the case may have been settled.

Paul Maki, retired DOF forester, worked in Southeast at the time of the case. The slide occurred in 1979. He explained that the site had been logged in the 1960s and had 20-30 foot tall regrowth when a rain event in excess of four inches in a 24-hour period triggered the slide. The case was settled after the remand, and as part of the settlement the state removed some of the woody debris in the slide chute to reduce loading in case there was a subsequent slide event.

Nichols asked how long would a company's liability would be. Was the slide caused by eventual root failure? It is hard to be held liable if an operation was conducted consistent with the rules. Operators can't have liability hanging on for decades – liability insurance ends when the operation ends.

The Board summarized its positions on the appropriate location for indicators, the IG recommendations, and the overall “Option II” approach to landslide risks.

► **Wolfe moved that the indicators on unstable slopes and saturated soils reside in the BMP implementation book (the “purple book”). Bosworth seconded.** Hanley clarified that there were three options for the indicators for saturated soils from the IG – the green book only, the purple book only, or both. For the indicators on unstable slopes the options were both books or the purple book only. **The Board unanimously approved the motion.**

► **Vinsel moved that the indicators for unstable slopes and saturated soils also be included in the green book (the regulations). Seconded by Nicolls.** Vinsel agreed that the indicators should be in the purple book, but believes they should also be in the green book. Not all the operators use the purple book. He also agreed with the other reasons listed in support of including the indicators in the regulations: the more people that read these, the more effective they will be. Including them in the regulations lessens the impact of who uses which book. Wolfe said that his main reason for opposing this motion is that guidelines aren’t appropriate in regulations. They are in the DPO regulation, but that is for submitting the DPO, not for specific BMPs that could have costly ramifications. Regulations have a specific role in law. Nichols doesn’t like adding the indicators to the regulations because there aren’t definitions for the terms in the indicators, e.g., “jack-strawed trees.” These are indicators and different people can look at them differently. They are a guideline that is one of the things that helps an operator determine where to put a road. The indicators are better as a training tool. Bosworth said that he is aligned with Nichols and Wolfe for keeping them in the purple book. It’s confusing enough when there are four separate rule books, and we make it more so by mixing apples and oranges unnecessarily. **Nicolls and Vinsel voted in favor of the motion; others were opposed.**

► **Wolfe moved to recommend that DNR proceed with adoption of the consensus recommendations from the I.G. McLarnon seconded. The Board unanimously approved the motion.**

Maisch asked whether there is a motion to affirm or change the Board’s March 18, 2010 decision to follow Option II on the decision tree (*see handout*) to not request public safety authority in FRPA but update existing BMPs). Nichols suggested that the Board could just do nothing. We spent a lot of time on this. There were a lot of opinions on whether or not to make this decision and he wouldn’t rehash it. Wolfe continues to be concerned that this work is simply referred to as public safety. It would be an expansion of DOF duties into other arenas. This shorthand does a disservice, and someone reading the record for the first time could misunderstand. Vinsel commented that the options chart shows that we have already gone down the Option II path with BMPs. If we had gone down the other path we would still be in the legislative process. If a legislator representing the constituents on this issue pursues the legislative path, we’ve already developed BMPs.

Dave Beebe, Petersburg said that it is hard to hear the teleconference due to page-turning. He noted that Nichols contended that this would be regulating natural events. There is data that clearcutting increases slides by a factor of five. Can the Board be objective on this issue?



Ed Wood, MHHA, emphasized that FRPA is the controlling authority for timber harvest other than for public safety issues. Addressing public safety requires an amendment. Liability is the primary reason why the Mental Health Trust hasn't logged. The Trust still has a timber harvest plan although they're proceeding with exchange. Wood supports the exchange. Homeowners can't get insurance for landslides as long as there's a risk of harvest. Logging increases the frequency of slide activity. The only other avenue for the Trust is to pursue a land exchange. It's a given that it doesn't remove the hazard of natural slides. The USFS wouldn't harvest the Mitkof Highway area. A successful land exchange would resolve the problem.

Don Koenigs, Petersburg reported that it was hard to hear Freeman's presentation by teleconference and requested a copy. He hasn't participated in the discussion before. His wife's property was affected by the last slide in Petersburg. He has been a resident of Petersburg for 35 years. He worked in Hollis area when there was eight inches of rain and eight feet of snow and there were eight massive slides, one of which he survived. He was a logging engineer for Ketchikan Pulp Company and worked in the field providing services associated with logging. In the 1980s he did consulting on the Mitkof land in question.

Koenigs reported that two harvests occurred at mile 4.2 on slopes >50% and at mile 6.8 on slopes in excess of 100%. There have been no slides since the harvesting in those areas over 30 years ago.

The question for the Board is of great interest. Koenigs has a copy of the recent MHHA letter. He said that he had recommended that the MHHA form after Mental Health Trust proposal to harvest above the highway. He also recommended that the Trust do an assessment of the risk factors throughout their property above the highway. He gave Doug Swanston's name to the MHHA when they formed. The recent slide pretty much destroyed Koenig's wife's property. He was not there on the day of the slide. The slide about 1400' long; he was initially unclear whether it started on the Trust property. Since then he clarified that it came from private property directly above Koenig's. Slopes were 20-30% over most of the property and 50-60% in the initiation area. A second slide slumped into the road ditch from Koenig's wife's property – there was no tree movement on that slide. These were natural slides – there was no harvesting. The MHHA letter is not accurate. He shares the concern with the landowners – safety is a concern for homes, the public highway, and the power line that is a lifeline for power from the Tyee project.

The Board has done a fine job. He doesn't have any problem with having some guidelines – that what's done by people who lay out timber. The situation along the highway is unraveling. There's a lot of variation in the terrain. Risks are greatest at 4.2-5.3 mile and 5.9-6.8 mile due to shallow soils. Those trees have stood for 500-600 years – this is probably the 10<sup>th</sup> forest on the site. Winds from the SW are unraveling that hillside. Swanston's letter says that as long as the trees stand it will be better. However, it's unraveling. It would be better to do some stabilization. We need an open and honest dialog in the community regardless of who owns the property, because those people will still be at risk. Not logging isn't the answer. There's a greatest risk of the slope unraveling with the timber on-site. If the property were logged above Koenig's property the risk would be reduced and he would reoccupy the property. Koenig has no interest or claim in taking action against the landowner. The hidden agenda is that the MHHA doesn't want logging. We need to keep the dialog open to address the real safety issues. Especially at 6.1 mile – there have been five slides at that site. Mitigation is needed regardless of the landowner. It would be

harder to engage the USFS than the Trust to do mitigation. Koenig said that the state Dept. of Transportation (DOPT&PF) told him he had an obligation to address runoff from his property and he did address that. Along the Klehini Highway there are barriers to reduce rock fall. It is ridiculous to say the whole area is at risk along the highway. We need to find common ground to address the safety issues.

Nichols – clarified that the DPO Alcan filed on the Trust property expired, and Alcan has no existing agreement with the Trust on that property. Slenkamp agreed that the DPO did expire but stated that there is still potential for harvesting in the future.

Slenkamp said that there was a single request five years ago to Petersburg-Wrangell insurers for earth movement coverage. The DPO ran out more than three years ago. There is a new insurance application from a homeowner that is in process. The origin of the recent slide may or may not have come from the Trust land; most of the material came from another private ownership.

Koenigs noted that his vehicle insurance did cover the vehicle on the slide site. The issue with earth movement is whether you are willing to pay for earth movement insurance, not whether you can get it.

Suzanne West stated that she and all members of the homeowners association know that the Meucci family was unable to get landslide insurance. If an insurance applicant knows that the Trust still has plans for a timber sale, which is currently held in abeyance, and doesn't acknowledge that to the insurance company, it could be considered fraud. She has climbed to the apex of the slides – what came down in the channel at 6-Mile is all logging debris. On the recent slide at 5.2-Mile, she did a line of sight estimate and it appears that the slide started on the Trust property adjacent to the Cottini property.

Hanley asked whether the Trust made its land selection from state lands. Slenkamp explained that the Mitkof parcel is original Trust land -- it predates the state selections. Hanley asked whether the Trust had discussed trading this parcel for other state land. Slenkamp said that the Trust is open to all proposals. Hanley recognized that the state Southeast State Forest land base is limited, but the Trust could look at lands elsewhere in the state. Curran commented that DOF wouldn't want to manage the Mitkof land.

Maisch summarized the Board's discussion. The Board doesn't want to reconsider the original decision to not request authority for public safety under the FRPA.

**One Tree Education Program.** Jan Dawe, UAF, said that the Fairbanks community is eager for forestry information, and desirous of participating in forest management activities. The Alaska Boreal Forest Council developed some forestry education programs, including Tapping into Spring, which engaged students.

The One Tree Alaska program tries to use all parts of a tree to make different products (*see handout*). The organizers originally invited the community in to see how many things could be made from one birch tree. She showed examples of knitting needles made from birch flitches, and leftovers from the needles were used to make artist's charcoal. The charcoal project was used to discuss the combustion process and products with students, thus integrating science and art.

The trees for the project came from the Tanana Valley State Forest. The original funding came from the USDA National Institute of Food and Agriculture (NIFA) Wood Utilization Research Program with 13 cooperating universities. The program looked at efficient uses of low-value wood to develop and promote renewable materials. It demonstrates vertical integration of wood values. One Tree emphasizes local resources that are locally used and locally sold. One Tree Alaska is an outreach program to K-12 schools. Dawe wanted the program to increase awareness of K-12 students on how wood resources can be used and how that could benefit the local economy.

Participants harvested and skinned the tree for bark, then main limbs, and green leaves. All tree parts were labeled, packed, and ready for delivery to about 30 local artisans and scientists. They took samples to document the tree's age – it was 6.5" dbh and 67 years old. Teachers wanted students to be involved, so One Tree cut the tops of 16 more birch (the upper 40 feet).

Studying phenology became a focus for seven classrooms – they forced branches to bud burst, and studied dormancy. There is little opportunity to do plant work during the school year. Climate change is changing the phenology – the growing season has increased from three months to four months. The students got convergent results from the classroom studies. One Tree archived seed from the original trees and grew trials from three of the trees and assessed how they responded to different length growing seasons by germinating at different times. Longer seasons produced larger seedlings with bud burst and a second year of growth. Students measured leaves that were excised from twigs before they were put into dormancy. University students did projects with K-12 students to look at climate records and tree rings. Students cross-dated rings between trees.

The original One Tree project finished up with two shows of adult and student products made from the trees. Demonstrations of bud burst generated conversations with the community on climate change. The university provided 1/3-acre to plant out the trees that were started following different season lengths.

The emphasis was on integrative curricula. That led to teacher training workshops, peer teaching, and community collaborations with experts in art and science. Over 1700 students, 60 teachers, and 30 schools participated over three years. The initial funding sources (US Dept. of Agriculture and National Science Foundation) have now expired. There was also a lot of in-kind support and community collaboration.

Talkeetna started a One Tree project last year. Wherever One Tree takes place, it becomes a powerful vehicle for developing and expressing the strengths and aspirations of the local community.

Students became interested in entrepreneurship with wood resources. Half of the Nenana Ridge trees are 140-160 years old: they pre-date the Civil War. There was surprisingly little rot in most of the trees. The trees came from an area that was previously logged. One Tree shows respect for people with different perspectives. There are many citizens interested in using natural resources effectively.

One Tree Alaska is interested in going statewide, and is looking for financial support. Dawe is interested in input on where the program could go from here. She would like to find ways for kids to make paper. Nichols said that a chemical process is needed to separate the fibers.

Nichols noted that many people are interested in commercial uses of birch, but it's hard to provide it because of the location in the interior.

Vinsel liked the concept of integrating art, science, and entrepreneurship. Alaska sometimes lacks entrepreneurship. Birch is a beautiful tree. He noted that John McPhee wrote a book on survival of the birch bark canoe in New Hampshire. Only one person was still making them then, but now there are several. There's a demand for high-end hand-crafted products. Dawe commented that some cottage industries may only provide one or two jobs, but in a small village, that is real. This project doesn't advocate a particular size for an enterprise.

Nichols liked the education on how trees can be used, not just conserved. Dawe said her current interest is in cordage – e.g., willow roots, and fireweed. Fireweed has great tensile strength. She is testing its use in deadfall traps. Vinsel said that his wife uses fireweed for paper.

Dawe would like to do a week-long knitting needle making camp this summer, and will tap birches again this spring.

**DOF Personal use program.** Rick Jandreau, DOF, explained that a best interest finding and Five-year Schedule of Timber Sales aren't required for small negotiated sales or personal use sales. Personal use permits don't require notarized contracts. Timber sales <10 acres don't need a Forest Land Use Plan and don't require public notice. DOF personal use firewood permits have increased in recent years (*see handout*). The numbers of permits increase with rises in fossil fuel costs.

DOF set up an online permit system for up to 10 cords of fuelwood for personal use. Permittees can pay by credit card online. DOF can also issue permits in person paid by cash or check. The online systems displays location maps of open areas and the requirements for each area. An applicant can select an area. The system provides an access map after they've paid for the permit. Each DOF area can add or change open areas, post advisories, etc. The systems have generally worked well. DOF has done minor improvements each year. It saves the DOF administrative staff a lot of time. Last year the Fairbanks office issued 596 permits; about 1300 were issued statewide. The online system saves about eight person-weeks of staff time in a year, and the system only cost about \$15,000 to create and maintain – it has already paid for itself.

There is a set rate for fuelwood statewide. Two areas in Tok and Kenai have free permits in bark beetle and fire salvage areas where DOF wants the wood removed. All DOF areas now use the online system except Delta. Southern Southeast doesn't currently have a personal use firewood program. Coastal Region fuelwood sales went down in FY11 – most people are still heating with natural gas which hasn't gotten more expensive as fast as heating oil. Fuel oil remains expensive in Fairbanks.

Enforcement of fuelwood permits has mostly been incidental to other activities. Foresters in the field check to see if people have permits. If not, they encourage them to pack up and go get one.

Many trespassers have been on borough land en route to state lands. The value of the wood is so low that troopers aren't interested in prosecuting timber trespass cases.

DOG also issues personal use negotiated sales with short-term contracts, especially for cabin logs. There are about a dozen/year in the Mat-Su area, and a few each in other areas. Some areas encourage people to go to commercial loggers first. There are more issued in the Mat-Su because the state is the largest landowner in that area, and there is demand for logs to build recreational cabins. Personal use sales can be time-consuming. DOF does much of the work by mail under an honor system. There aren't many complaints – people are usually good neighbors.

DOF received an FY12 CIP for \$600,000 for firewood access. The Division allocated about \$380,000 of the money this year in the following areas.

- Delta: Delta R. West winter road, Burnt Mt., and Rapid Creek all-weather roads
- Fairbanks: Hastings fire line upgrade and new construction of all-season access (winter-only spurs will be done by timber sale contractors); Fortune Creek bridge crossing
- Tok: Porcupine Creek Road
- Copper River: Tazlina West approach
- Kenai: Coho Loop Road parking/landing area and skid trails for ATVs and snowmobiles
- Mat-Su: Sunset winter road mainline (commercial sawlog harvesters will build spurs); Zero Lake Road extension

Nichols asked whether the online permit provides any information on burning dry wood. Jandreau replied that there's some info on the website, but DOF needs to do a better job of providing that information. Eliot added that DOF is working with FNSB to get the word out. McLarnon noted that some websites require a little quiz before getting a permit. Jandreau commented that the online permit works very well for reporting.

Nichols asked whether there are there liability issues for DOF. Jandreau said that there are always liability issues. Personal use permits are something the state has always done, and there would be serious problems if the state decided to stop the program. Some timber theft occurs – mostly by individuals, not big operations. It is hard to prove timber theft unless someone is caught in the act.

Wolfe commented that the permit program seems like a success and provides good constituents. He asked whether there is a wood to oil conversion for energy equivalents. Doug Hanson, DOF, said that 1 cord = approx. 100 gallons of fuel oil. Wolfe recommended DOF including information on the energy value provided by state wood.

**NPDES permitting.** Marty Freeman reported that William Ashton was unable to attend, but relayed that he had no new news on this topic (*see handouts*). He said that DEC work on this issue is on hold while Congress and the courts continue their reviews. The federal legislative initiative was included in the August 2011 BOF packet – Alaska is not the lead but supports this process. Alaska has also joined 25 other states in filing an amicus brief on an appeal to the US Supreme Court.

Nichols said he has heard that legislation is proceeding with bipartisan support in both houses. Maisch – will look up. Oregon is the lead on the lawsuit. Some states prepared a general permit as a backup.

**Planning updates and burn permit regulations.** Jim Schwarber, DOF, reported that the Interagency Land Management Agreement for the Homer Demonstration Forest was signed Oct. 30, 2011 for a 25 year term. He also reported on the following projects.

- Leasehold Location Order 31 for long-term growth and yield study plots in the Tok Research Forest awaits Commissioner's signature.
- DOF held a workshop with State Historic Preservation Office (SHPO) staff on November 15 to acquaint staff with DOF and SHPO work and for developing short-term solutions for meeting the responsibilities of both offices. SHPO requested more detail on years 1 and 2 of the FYSTS – that gives them enough info to preclude need for as many cultural resource surveys. The agencies agreed on post-fire salvage sales and need to harvest quickly; DOF is looking for an expedited way to work with SHPO. DOF may try to get someone from SHPO on the ground immediately after a fire when the ground is most easily surveyed. Relationship with SHPO currently improving.
- DOF held the 4<sup>th</sup> annual Mat-Su winter trails meeting with loggers and mushers. There were no use conflicts this year. Participants review plans that each group has for the forest roads over the winter, look at overlaps, and identify potential conflicts. There's a 2-day spring mushing race that has occurred without conflict – the operators have cooperated well with the mushers.
- After the Susitna-Matanuska Area Plan was signed by the DNR Commissioner there was a request for reconsideration. The Commissioner addressed the request, but there was a subsequent lawsuit by Alaska Survival from Talkeetna. The suit may hold up the development of the SMAP forest management plan. The litigation timeline is uncertain. The lawsuit is over public process concerns. Schwarber will report to the Board on the issues in the suit.
- The Tanana Basin Area Plan updates are still in internal DNR review. DOF expects initial maps from the Division of Mining, Land and Water soon.
- DOF is working on SESF Management Plan. Maps are on the DOF website for all SESF units. DOF will start a public process early next year to identify public uses. The Division is building from the existing area plans and hopes to have a management plan draft in February-March 2012.
- Burn permit regulations are still in internal review. DOF is addressing issues from the management team. The purpose is to simplify the permitting process for the Division and the public.
- The University Research Forest that is currently part of the Tanana Valley State Forest was not reconveyed to DOF when the University land settlement was reversed in court. This parcel will be conveyed to the University in 2055. DOF is considering how to coordinate management with UAF.

Nichols said that some second-growth harvests are getting delayed due to SHPO requests. Schwarber said that some harvests need an assessment but not necessarily a survey. SHPO may request a survey if one was not previously done. DOF and SHPO are working toward a programmatic agreement to address things like second rotation harvests.

**Timber Task Force update.** Maisch handed out the agenda for the December 1-2 Task Force meeting and field trip and summarized work to date (*see handouts*). Vincent-Lang will be the new

ADF&G representative on the Task Force. The Task Force has subcommittees on state forest management and laws, state land acquisition in Southeast, Tongass timber sales, and Tongass timber demand and wood products. The Task Force has done initial reports on Tongass sales and wood products. The Dept. of Commerce, Community, and Economic Development (DCCED) is currently surveying Southeast wood-using businesses to get more information on demand and supply. Freeman noted that DCCED is actively involved in the Task Force and providing staff to collect valuable information. Maisch also noted the importance of ADF&G in the Tongass efforts.

**TLMP implementation.** Clarence Clark, DOF, reported that the 9<sup>th</sup> district upheld the lower court ruling in favor of the USFS on the Logjam Timber Sale. Consolidated state comments and the state intervenor status were important to the success in court. This was the first time this federal judge ruled in favor of the USFS on a timber sale.

The state CIP has supported ADF&G involvement in the Tongass efforts. ADF&G has assigned the Tongass duties to Joe Hitzelberger; Kyle Moselle has moved to the DNR Office of Project Management and Permitting and will be the leader of the state Tongass team.

The USFS awarded two stewardship contracts totaling about 30 MMBF. Stewardship contracts take a more holistic approach to forest management – projects may produce products with value that provide money to pay for management activities. These are the first contracts on the Tongass that produce income. These are integrated resource timber contracts in which the value of the timber removed during management exceeds the cost of the activity. The revenue is considered “retained receipts” and stays on the Tongass for forest management. One of the contracts generated a half million dollars to be used for other projects. The federal budget for restoration work is small, so that’s a big contribution.

- Clark is working on supply issues for the timber and renewable energy cluster groups organized by JEDC. Fiber supply is necessary to have a timber industry. Abundant fiber exists, but it must be economical. Clark is trying to get better estimates of what is actually economically available. Verhagen asked whether the state is making those estimates. Clark affirmed that he is working with the USFS to come up with these studies. Maisch noted that you need an industry that is harvesting wood to produce biomass as a byproduct to make biomass economical. Pellets aren’t a primary product in Southeast. The Superior Pellet mill in North Pole is producing pellets as a primary product, but that is unusual.

DOF mailed a reply to the USFS on road use agreements and fees on the Tongass and proposed a solution. DOF wants a blanket agreement across the Tongass so that purchasers don’t have to get individual permits and pay fees to use USFS roads for access to state sales.

The Wrangell Island USFS timber sale is now proposed as a stewardship project with 80-160 MMBF. The USFS cancelled the contract for the NEPA document, and that project is on hold for at least a year.

The Big Thorne Draft Environmental Impact Statement (DEIS) is due out in January 2012 with 90-160 MMBF. The Tonka DEIS is out. The Alaska Tongass Team is putting together consolidated comments that are due December 12, 2011. The State has been involved in Tonka since the beginning. Reductions in volume are largely due to the Roadless Rule implementation.

The state and Alaska Forest Association have appealed the court's ruling on the exemption. Alaska also filed with the D.C. district court for a new Tongass exemption.

Clark is working with the USFS to developing a unit pool for the Saddle Lakes project. Saddle Lakes is tied into the Shelter Cove Road system near Ketchikan. The road project was funded through a bond initiative. ADOT&PF is working on that project and will hold another meeting in Ketchikan.

The USFS plans to offer 10 MMBF of timber in 2012, and 6 MMBF of that is under litigation. The Tongass Timber Reform Act has a section requiring that the USFS should seek to meet the demand for timber. The latest Tongass demand number from the USFS was 110 MMBF – that is the amount they are Congressionally responsible for offering. The USFS hasn't offered more 50 MMBF since 2005, and not more than 100 MMBF in the last decade when the "seek to meet" demand level was 178 MMBF. In 2011 they offered 39 MMBF, part of which was overrun from previously sold sales, and 30 MMBF in stewardship contracts. The only other new volume was about 7 MMBF. Nichols noted that the USFS had said they would offer 80 MMBF in 2011.

Nichols said the 2012 number will create heartache for the industry. Can the USFS move anything forward in a timely manner? Clark said that Tongass is trying to fill that gap. The USFS has had ideas for 60 MMBF of timber but it is unlikely that they can actually offer that much. The USFS doesn't have the capability to meet the "seek to meet" number under the process with which they are burdened. Some sales started in the 1990s that still haven't been offered. At their peak, Tongass offered 400 MMBF/year. Nichols added that those offerings occurred with a smaller organization.

Paul Verhagen, aide to Rep. Dick, commented that it appears that big processes are causing a decline in Southeast. What can be done differently, e.g., with biomass? Clark said that you can justify a switch to diesel when fossil fuel costs are high, but the cost of pellets doesn't increase proportionately even though the costs to produce it increase. Nichols said that there is no long-term predictability to make the investments needed in the industry – there are too many lawsuits and changes in regulations. Without the supply, you can't have any industry. Verhagen asked what other things the state should be thinking about. Nichols answered that putting land into State Forest designation helps. Alaska has to look at how to road these lands and make interior lands more accessible. Typically timber paid for forest access, but the resources in the interior can't do that. Infrastructure is where to start. Verhagen agreed we need access to forest lands, whether paid for by agriculture, forestry, mining, or other uses. For example, Nenana did studies for a bridge and acquired ROWs, etc., Doyon worked on a road, and the city then agreed to take responsibility for maintenance. We could get needed momentum to build that bridge if resource agencies help identify needs. Nichols said we need visionaries to look decades ahead.

Clark said that for Tongass roads, the state and federal agencies can develop cost-share agreements, and use ledgers to track infrastructure investments rather than trading fees. He noted Sealaska's experiments with spacing, pruning, and pre-commercial thinning – those look very far into the future. He said Viking's motto is "do no harm," i.e., don't do things that preclude future opportunities. What species should we favor for the future?



**Sealaska entitlement legislation update.** Wolfe reported that pending federal legislation to resolve entitlements has not had a committee markup yet, and it's unlikely this year, which puts it into an election year. Sealaska has identified some lands to request conveyance to keep contractors going into 2013. Sealaska is not just interested in profits and the bottom line – this action isn't the preferred option, but Sealaska doesn't want to lose contractor capacity despite a negative cash flow. The primary focus is to push to get the entitlement bill passed as soon as possible, but it may not happen. Southeast Alaska is on a pending implosion. All communities other than Juneau are losing population, and schools are closing.

## **Wednesday, November 30, 2011**

All members present except Ron Wolfe

### **New Business**

**State invasive species program.** Brianne Blackburn, DNR Division of Agriculture, Invasive Plants and Agricultural Pests Coordinator reported that her position was made permanent this year, and is now funded. Gino Graziano is now working with invasive species for the Cooperative Extension Service.

Invasive species are species that are non-native to the ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health. They typically lack normal conditions to keep them in check.

Nichols suggested that people could be considered invasive under that definition. Blackburn replied that people made the definition and aren't considered invasive for this program.

In Alaska, biologists and natural resource managers are tracking 332 non-native plants for potential invasiveness. A small proportion will establish themselves in natural environments, and a smaller proportion of those will be invasive. The Alaska Natural Heritage Program in Anchorage maps data for these species.

Costs to control invasive species increase, and the feasibility of control decreases over time as the affected area expands. Prevention, early detection and rapid response are most cost-effective, and eradication is possible early on. Typically, a species introduction is followed by a period of rapid expansion and finally the size of the affected area reaches a plateau. Land manager awareness usually occurs before public awareness exists. Eventually, only local control and management is feasible, e.g., keeping bird vetch out of certain plots. Not all plants move up the typical curve the same distance or at the same speed. Sometimes plants stay localized a long time until conditions change. Alaska is still largely at the lower end of the scale for areas infested, number of problem species, and control costs.

Hanley asked whether there are any permanent plots across the state for monitoring invasive species. Blackburn said no. There are some areas that are being managed actively and monitored. Alaska has relatively few invasive species, and we know where weeds like bird vetch and white sweet clover came from.

DNR has programs to inspect and grade agriculture products (e.g., weed-free forage); program coordination, planning, and review; regulation and control of the entry and transport of seeds, plants, and other horticultural or agricultural products; and control and eradication of the spread of pests. Weed-free forage is a value-added product – it costs more to produce. The Iditarod Race requires it. The Division of Agriculture (DOAg) is trying to encourage growth of this program. DOAg is also working on certifying gravel pits that are weed-free for use on areas in sensitive sites. There won't be a statewide requirement for weed-free gravel on all projects. Right now it's aimed at sensitive areas, especially areas that are weed-free.

Nichols reported that federal contracts are already requiring these kinds of weed-free products. It takes inspection which is costly. This is a regulatory issue that raises costs -- it's not a value-added product. In Yakutat, DOT and the federal government had mixed requirements for straw in a small area. Alaska needs more federal-state coordination. Blackburn said lack of coordination is a big issue. DNR is trying to align its programs with other agencies in the same geographical areas.

Blackburn reported that there are noxious weed lists for Alaska. The prohibited list has standards for the number of weed seeds allowed in agricultural products. DOAg is working on revising the regulations.

Maisch asked whether there are any restrictions on the import of firewood -- it has spread emerald ash borer in the Lower 48. Blackburn said the current regulations apply specifically to seed. DOAg is looking at changing them to address a wider array of products. They want to put a process in place for quarantining.

Blackburn works on coordination invasive programs, through Committee for Noxious and Invasive Plant Management (CNIPM) meetings and teleconferences. It's hard to get everyone involved, e.g., ADOT&PF. DOAg published the Strategic Plan for invasive weed management in Alaska and reports annually on results and new issues.

ADF&G manages invasive aquatic species and animals. They have a 2002 management plan. The agencies are working on making the relationship between the DNR and ADF&G programs more effective. ADF&G maintains a reporting number for invasive species. CNIPM and Alaska Invasive Species Working Group meetings are held back to back to cover all species, such as the invasive tunicate in Sitka, and *Elodea* in Fairbanks. Tammy Davis is the main ADF&G contact for invasive species; she is based in Juneau. Hanley also referred to Patty Krosse, a USFS ecologist in the Tongass.

Blackburn said that there's no website for contacts around the state to check on invasive species, get management advice, etc. She is working on creating such a site.

Trish Wurtz with the USFS in Fairbanks has been working with the Fairbanks Soil and Water Conservation District (SWCD) to manage *Elodea*. Most SWCDs have active conservation programs that include invasive species.

Cronin asked for an outline of funding sources for the different programs. Should the state agencies like DNR and ADF&G be making the lists of invasive species rather than having a

wilderness advocacy group like the Alaska Natural Heritage Program do it? Blackburn said that the Natural Heritage Program ranks a lot of non-native species and some of those such as Kentucky bluegrass are controversial. As far as identifying invasive priorities, the regulations review is working on a process to do this, including agencies, conservation districts, and others to develop regional lists.

Cronin doesn't want the federal government dictating to state and private landowners on this issue. This could become another heavy-handed federal program. An effective state program could negate the need for a federal program. Blackburn agreed. Alaska is trying to work with SWCDs to identify regional issues.

Cronin stated that having a list produced by the Natural Heritage Program results in a template for things that will be considered problems.

Vinsel asked about the invasive species working group – can it handle the job of interagency coordination. Blackburn replied that Coordination is an issue – it's hard to get everyone at the table. Many people that should be involved don't have time committed to invasive species work. It's voluntary, and not all the important players attend. A state structured council could have been effective. The working group is a step in the right direction but is not yet effective.

DNR invasive species projects include:

- Control and management – Canada thistle containment (USFS and state funding), purple loosestrife eradication
- Outreach and education -- EDRR, horticulture industry (USFS funding)
- Inventory and monitoring – giant hogweed, purple loosestrife (US Fish & Wildlife Service (USFWS) funding), gravel pits, spotted knapweed (funding from APHIS)
- Certification – gravel (BLM funding), weed-free forage

Bosworth asked whether there are any projects on reed canary grass. Blackburn replied that the Kenai conservation districts are working on this.

Blackburn said there has been talk about horticultural industry certification. It has been hard to coordinate this effort with the private industry. The past approach was viewed as regulatory and resisted by the industry. Just saying what they can't do doesn't solve the problem. Blackburn is doing surveys on what species nurseries are interested in by region – where do they want more information for themselves and their clients.

The DOAg Strategic Plan for invasive species covers plants – prevention, regulation and policy, coordination, early detection/rapid response (EDRR), control & management, inventory, monitoring, and research. The state regulations are under review – Blackburn hopes to get them back soon and out for public review. DOAg will hold public meetings on the draft regulation revisions.

Coordination includes the Alaska Invasive Species Working group, CNIPM, Cooperative Weed Management Areas, and SWCDs.

AKEPIC (the Alaska Exotic Plants Information Clearinghouse) is the Alaska Natural Heritage Program website – it is a good mapping tool for non-native plant species in Alaska (not limited to invasive species). The national Early Detection and Distribution Mapping System also has been brought to Alaska. The two databases don't always agree. Both mapping systems are user-friendly.

Blackburn stated that Alaska needs to do more with educating agency staff on what invasive species to look for in the field.

Bosworth asked about programs for ballast water. Blackburn said ADF&G would be the contact for that information. Cronin said that the Valdez pipeline terminal has a big ballast water program.

Cronin asked about getting a copy of the regulation revisions. Blackburn reiterated that the revisions are currently under internal review. She hopes to have them out for public comment in January. They propose amendments to the existing regulations on seed laws. It is a process for deciding what species are weed and pests, what would be quarantined, and how to create and manage the state list of noxious weeds. She said that the state is not moving toward regulations requiring weed-free gravel. Blackburn will get existing regulations to the Board and distribute the proposed revisions when they are available. She would like Board input on the regulations.

Wolfe rejoined the meeting.

Wolfe asked about requirements for weed-free seed. Blackburn said that is not regulated by the state. Wolfe asked about herbicide use for invasive species control. Blackburn replied that herbicide use is included as a tool in the strategic plan.

Nicolls commented that there's an annual garlic mustard pull in Juneau, but it seems to be self-perpetuating. Roundup would do the job. Blackburn said that a lot of weed-pulling is education. Garlic mustard it crosses many ownerships and it's not easy to get consensus on how to manage it.

**Endangered Species Act (ESA) issues affecting timber.** Doug Vincent-Lang, ADF&G, provided overview to ESA. ESA allows agencies or the public to initiate a petition for a finding on a species in 90 days. The 90-day finding determines whether a 12-month status review of the species and threats to it is required. After a 12-month review, the federal makes a proposal to list the species or not. If listed, the agency designates critical habitat, establishes a recovery team and develops recovery objectives. Over time, species can be uplisted, downlisted, or delisted. Economics don't have to be considered in the decision to list a species, but do have to be considered in identifying critical habitat.

Recent recovery objectives for population size have increased. A species has to reach the recovery objective to be delisted. Recovery goals may also require other non-population criteria, such as requiring kelp forest recovery to delist sea otters.

Short-tailed albatross, Eskimo curlew, Aleutian shield fern, Steller sea lion, bowhead whale, fin whale, beluga whale in Cook Inlet, and humpback whale are currently listed as endangered species in Alaska. The curlew is likely extinct. There are also five threatened species, incl. polar bears.

Seven species are under consideration for listing including the Alexander Archipelago wolf, flying squirrel, Southeast Alaska herring, and Kittlitz's murrelet.

The state endangered species law lists Eskimo curlew, short-tailed albatross, humpback whale, right whale, and blue whale. A state listing must decide that the species viability is at risk. Alaska may delist humpbacks.

Wolfe asked whether recovery of one species (e.g., humpbacks) can depress the population of another (e.g., SE herring). Vincent-Lang said that is a huge problem for the ESA.

Once a species is listed as endangered, "taking" of that species is prohibited, and consultation with federal agencies is required for projects with a federal nexus. For projects with incidental take but no federal nexus, habitat conservation plans and incidental take permits may be required, even on private land. There are no habitat conservation plans in Alaska at present – they open the door to federal oversight of non-federal land.

Nichols argued that there are takings of private land by federal agencies due to ESA requirements. Vincent-Lang replied that federal agencies don't say no to actions on non-federal land, but may condition activities to the point where the landowner considers the action no longer worthwhile.

Lawsuits can be filed at any stage of the listing process. The court reviews have reduced the role of biologists in making these decisions.

ESA requires the federal agencies to work with the states during all aspects of the processes, but the state has not been given any special status in the process – it just considered part of the public. The National Environmental Policy Act (NEPA) allows states "cooperating agency" status, but ESA doesn't. The state wants to make it a more open and transparent process.

The State supports appropriate use of ESA to prevent near-term extinction of a species and to recover the population – e.g., for the northern right whale. The State does not support ESA use as a precautionary tool to protect species that are facing long-term speculative risk, e.g., the Cook Inlet beluga which was estimated to have a 1% chance of extinction in 50 years. Alaska does not support overly broad critical habitat designations (e.g., polar bear critical habitat), and believes the critical habitat designations should account for the full costs of the designations – the federal agencies commonly underestimate the full cost. Overly broad designations convey too much control to federal agencies on non-federal land.

The State has an active lawsuit on the polar bear listing and the accompanying critical habitat designation. This was the first listing of a species that hadn't declined, and it was based on speculative future declines. Alaska also has active suits on the Cook Inlet beluga listing, Steller sea lion biological opinion, and ribbon seal listing.

Alaska, Oregon, and Washington have filed a petition to delist the Steller sea lion which has met all of its recovery goals. It is easier to list a species than to delist it. About 2000 species are currently listed as threatened or endangered and another 500 are under consideration. Only 46 species have been delisted, of which only 20 have been recovered.

The USFWS will do a 90-day finding of the Alexander Archipelago wolf petition this winter. Vincent-Lang expects they will decide to conduct a status review. He doesn't know whether they will do a finding for the flying squirrel. The soonest USFWS could do a 12-month review on these and other new species would be 2017. That gives time for the State to collect additional data on these species. ADF&G has no concerns on these species at this time – trapping wolves is allowed. ADF&G will look at whether the Alexander Archipelago population is distinct.

Cronin asked what would happen to timber harvest on non-federal state land if the wolf, squirrel, or goshawk is listed. Vincent-Lang explained that the USFWS would have to review any Tongass sale plans to determine if there will be a take of the species – if there is a taking, they can require modifications or prevent harvesting. On non-state land, the species can't be "taken" due to forest management activities. If the USFWS believes there would be a taking, then a Habitat Conservation Plan could be required, or the owner could be subject to suit.

Nichols asked what happens to subsistence hunting for deer, when they are the main prey for wolves in Southeast. Vincent-Lang said that the federal agencies have had a lot of challenges on their reviews. Their recovery goals would be for populations above the current population and could require thresholds like a certain amount of old growth forest. ADF&G looked at wolves in recent years and did some restriction on wolf harvests, but didn't cut off harvesting because ADF&G didn't believe it was necessary. Nichols asked whether the State will try to get ahead of this issue by managing wolves differently rather than waiting for a listing decision. Will the ADF&G Subsistence and Wildlife Conservation divisions coordinate their management? Dahlstrom noted that wolf trapping is currently unlimited, and five wolves can be taken for hunting: how can they be considered for listing? Vincent-Lang said that USFWS is looking at long-term models of populations and listing species at low threat levels. He emphasized that Alaska has not had a species go extinct since statehood – that's a good track record.

Wolfe said that wildlife modeling is a concern. The ADF&G deer model didn't match results seen on the ground, so Alaska started to work toward a better model. Vincent-Lang responded that ADF&G typically doesn't use models beyond about five years to set current harvest rates – the state agency is not looking out 50-100 years. ADF&G is skeptical of modeling, especially over long periods. The polar bear model started from CO2 increase, and translated that to increased temperatures, to sea ice loss, to habitat loss, to cub survival decrease, to a threat to viability. To assume a population decrease you have to assume the system is at carrying capacity so that any loss of habitat reduces numbers. That isn't happening. For example, in the Chukchi Sea, the biggest threat is overhunting in Russia, not the loss of sea ice. Bears are shifting their diets as the habitat shifts. Wolfe stated that ADF&G has a history of making similar assumptions in their own deer models. Vincent-Lang said that ADF&G will review the deer models in coming years. The ESA models need an independent scientific review as is done for deer models. Wolfe said that private landowners are keenly interested in working with ADF&G as they review their models.

Nichols asked how much scientific evidence is needed to make a positive 90-day finding. Vincent-Lang said the threshold for a positive finding and taking on a 12-month review is very low, and there is little opportunity to develop or submit additional data. There is more opportunity to provide data in the 12-month review.

Congress is scheduling hearings on ESA in December. Other states are getting interested in the same concerns over prospective listings.

Rep. Dick stated his opposition to introduction of wood bison to the Innoko. He doesn't believe that future exemptions for reintroductions under ESA will hold up. The Donlin Creek mine is close and is important to the region economically. Vincent-Lang replied that "take" of introduced animals is allowed for activities that preceded the introduction. ADF&G is working on a ruling that says reintroduced wood bison are nonessential and experimental, and allows elimination of the population if necessary. They haven't finished those negotiations yet. ADF&G will report back to the legislature before releasing any wood bison. Vincent-Lang expressed more trust in this exemption, because he said that if the Service guts the 10j rule, they will lose the ability to do reintroductions anywhere in the future.

Nichols suggested that if only 1% of the listed species have recovered, the ESA is a failure. It has had major adverse economic impacts on the industry. Vincent-Lang said those questions are being looked at now.

Nicolls commented that sea otters have wiped out Dungeness crab, but there's no move for a controlled harvest. Vincent-Lang noted that sea otters were wiped out in Southeast, then reintroduced from western Alaska. Now the USFWS considers the eastern and western otters two separate populations. The one USFWS exemption for taking otters is for Coastal Alaska Native harvest. ADF&G is working to get a broader allowance for Native otter harvest.

Cronin said that Vincent-Lang and Corey Rossi have changed the ADF&G culture in advancing the state interest in ESA, despite hostility from the environmental community and even other biologists. He said they are working to bring more credible science to these issues.

**ACMP regulations.** Freeman reported that DNR is working on amendments to make the Department's regulations consistent with the end of the ACMP program (*see handouts*). FRPA links to ACMP are described in the handout. The only complex item is the definition of "project" – DOF added a definition for "project" on public land to preserve the link to another section of the regulations. There are no changes since DOF circulated the draft to the Board. DNR originally planned to have the package out this fall, but Freeman hadn't gotten an update on the schedule.

**Mental Health Trust land exchange, continued.** Slenkamp requested that the Board send a letter to the Governor and Congressional delegation in support of its proposed administrative land exchange. The letter could be similar to the one sent on the previous legislative exchange proposal.

Vinsel heard about interest in opening a mill in Petersburg and asked whether the proponents are looking to the Trust for timber supply. Slenkamp said the issue is supply; proposed operators haven't approached the Trust yet. There is already a mill on Trust land in Petersburg, but there's not a market.

Vinsel asked whether a letter to the Governor on other exchange options such as trading for other state land would be premature. Slenkamp reiterated that the Trust is always looking for other

solutions, but the state land ownership in Southeast Alaska limits the options. Freeman suggested including that issue in the next meeting and including broader suggestions on solutions for Trust land in the Board's report to the Governor.

► **Foley moved to provide letter as requested. Wolfe seconded. The motion passed unanimously.**

Verhagen asked about requesting Board support for the Nenana access.

**Regional reports.** Mike Curran, DOF, reported business as usual for the Coastal Region. Staff worked on a FRPA inspection on Afognak Island, "bridge timber" sales, a road use agreement with USFS, a Susitna State Forest proposal, the first field inspection for the Kenai road condition survey, and MatSu winter roads. They are discussing FRPA definitions for biomass.

The "bridge timber" effort that started in 2004 increased the volume of state timber offered. The USFS has not filled the pipeline in the intervening years. DOF will try to crank out as much volume as possible from state land to keep mills operational until the volume from the Tongass increases. The Southern SE office is working on additional sales – they are trying to put out 15 MMBF in the coming year. The annual allowable cut is 12 MMBF. DOF will try to exceed that this year and next year, but there is a finite amount of state timber, and subsequent offerings would be below the allowable cut. The state holdings are tiny and drying up fast. We hate failing, but we can't keep it up too much longer. Maisch emphasized that DOF is are doing what it can but are reaching our limit on the small state land base.

Mark Eliot, DOF, said that the Northern Region is focused on commercial and personal use timber activities. They are looking at use of the 2011 Hasting Fire firelines which were put in with thoughts of future access. DOF is considering spurs off the dozer lines for forest access.

Eliot reported that the Fairbanks resource forester took a new job at Tanana Chiefs Conference. DOF has just completed interviews to refill that position. The Fairbanks, Delta, and Copper River offices are preparing their Five-year Schedules of Timber Sales. The Delta School boiler is operational and doing well. The Tok boiler is still doing well. The Tok office is putting in a road on the north side of the Tanana River for timber access. It is a 6.5 mile road that ties into the old Alaska Highway. The Copper River office is working with ADF&G to add an area to a proposed Forest Land Use Plan. The Copper River area is running out of dry firewood; DOF is trying to educate residents to cut wood ahead and let it dry.

**Next meeting: Feb. 28-29 or March 20-21**

#### Agenda items

- Budgets
- Alaska Sustainable Salmon Fund status and process
- Legislation
- DOF strategic plan and links to budget process
- EPA briefing on 319 funding policy
- Landslide regulations process update
- Timber Task Force update



- TLMP implementation
- Sealaska entitlement legislation update
- MHT exchange legislation update and options for exchanges with other state land
- Report on JEDC timber cluster
- Wood energy updates
- NPDES permitting
- Planning updates
- Region updates
- Interagency Fire Management Plan
- USFS Heen Latinee Experimental Forest
- Information campaign on FRPA and 40<sup>th</sup> anniversary of Clean Water Act
- DOF report on 2011 compliance monitoring
- DOF report on 2011 road condition survey work
- *Monitoring reports?*
- Annual reports to BOF from agencies
- Annual report from BOF to Governor
- Invite Jeffrey Jones from GO

#### **Board comments.**

- Nichols appreciated the ESA presentation and outside speakers. Their presentations relate to our business.
- McLarnon concurred, and thanked Mark Vinsel for the artwork on the Board packet cover. Thanks to Bev Ostoj and Freeman, too.
- Foley concurred with Nichols and McLarnon.
- Nicolls said the ESA presentation was outstanding.
- Vinsel appreciated the presentations on ESA and invasive species. He also celebrated the work from Freeman and others on the Landslide Implementation Group and bringing this issue to culmination. This achieved a milestone and it shows the purpose of the Board.
- Cronin asked Freeman to pass his contact information to Rep. Dick for information on the wood bison issue

Adjourn Day 2 at 12:30 p.m.

**Field tour** – following the meeting, the Board visited the Cold Climate Housing Research Center and Great Alaska Bowl Company.

#### Handouts

- Draft Agenda
- Public notice
- Draft minutes of August 30-31, 2011 Board of Forestry meeting
- ACMP draft regulations
- Tongass issues
  - Minutes from Timber Jobs Task Force meeting #4, Sept. 9, 2011
  - Minutes from Timber Jobs Task Force meeting #5, Oct. 7-8, 2011
  - Task Force preliminary report to Governor

- Task Force quarterly report on potential Tongass timber sales
- Task Force initial report on Tongass wood products
- Task Force agenda for December 1-2, 2011
- Administrative Land Exchange, United States Forest Service/Alaska Mental Health Trust, Nov. 16, 2011
- Landslide Standards Implementation Group
  - Minutes Meeting #3, September 27, 2011
  - Letter from Mitkof Highway Homeowners Association, September 24, 2011
  - Letter from Mitkof Highway Homeowners Association, November 8, 2011
  - City of Petersburg Resolution #1922 re Mental Health Trust land exchange
  - Final consensus points from Science & Technical Committee and Implementation Group
  - Comparison of S&TC and IG consensus points
  - Draft regulation changes re landslide standards
  - Landslide and Public Safety Decision Tree, 1-11-10
- NPDES permits and roads
  - Opposition mounts to ninth circuit ruling requiring NPDES permit for stormwater runoff from forest roads, Svend Brandt-Erichsen, Assn. of Clean Water Administrators, Oct. 7, 2011
  - Amicus Curiae brief of the states of Arkansas, et al. in support of the petitioners in Oregon v. NEDC, October 14, 2011
- Wood Energy
  - 18 Years of Personal Use Firewood Permits (chart from DOF)
  - Untitled 2-page handout from DOF on FRPA and biomass energy harvesting, Nov. 29, 2011
- One Tree Alaska brochure
- Letter from Sen. Murkowski to Board of Forestry Nov. 30, 2011 re timber issues and Congress
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#### Attendance

Randy Bates, ADF&G (teleconference)  
 Dave Beebe (teleconference)  
 Brianne Blackburn, Div. of Agriculture  
 Clarence Clark, DOF  
 Mike Curran, DOF (teleconference)  
 Bryce Dahlstrom, Viking Lumber  
 Rep. Alan Dick  
 Mark Eliot, DOF  
 Cynthia Erickson, aide to Rep. Dick  
 Marty Freeman, DOF  
 Kevin Hanley, DEC  
 Mayor Luke Hopkins, FNSB  
 Karrie Improte, CACFA  
 Rick Jandreau, DOF  
 Don Koenigs (teleconference)  
 Jim Kruse, USFS

Ricki LaMoss, aide to Sen. Coghill  
Stan Leaphart, CACFA  
Paul Maki, retired DOF  
Joel Nudelman, DOF (teleconference)  
Pat Palkovic, DOF (teleconference)  
Devany Plentovich, AEA  
Jim Schwarber, DOF  
Paul Slenkamp, Alaska Mental Health Trust  
Nancy Sonafrank, DEC  
Greg Staunton, DOF (teleconference)  
Helen Traylor, AEA  
Representative Tammie Wilson  
Paul Verhagen, aide to Rep. Dick  
Suzanne West, MHHA (teleconference)  
Ed Wood, MHHA (teleconference)